

AMENDED IN ASSEMBLY FEBRUARY 25, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1811

Introduced by Assembly Member Dodd

February 8, 2016

An act to amend Section ~~14513~~ of, and to add Section ~~14513.5~~ to, ~~14601~~ of the Food and Agricultural Code, relating to fertilizer.

LEGISLATIVE COUNSEL'S DIGEST

AB 1811, as amended, Dodd. ~~Fertilizing materials: auxiliary soil and plant substances: biochar~~ *Fertilizer: organic input material: inspections.*

Existing law generally regulates fertilizing materials, as defined and which includes organic input material, and provides for the licensure of individuals who manufacture or distribute fertilizing materials. Existing law requires organic input material manufacturers to be inspected at least once per year. Existing law authorizes the Secretary of Food and Agriculture to perform site inspections of organic input material manufacturing processes used to validate label nutrient guarantees, claims, and compliance with specified federal standards during the registration process, and to accept inspections performed by a 3rd-party organization recognized by the National Organic Program for out-of-state organic input material manufacturers. Existing law requires all inspection records obtained by the 3rd-party organization to be made available to the secretary upon request.

This bill would eliminate the requirement that organic input material manufacturers be inspected at least once per year, and would delete the limitation that the secretary is authorized to perform site inspections of organic input material manufacturing processes only during the registration process. The bill would authorize the Department of Food

and Agriculture to accept inspections performed by a 3rd-party organization approved by the secretary for organic input material manufacturers. The bill would require all inspection records obtained by a contracted 3rd-party organization to be made available to the secretary upon request.

~~Existing law generally regulates fertilizer materials and provides for the licensure of individuals who manufacture or distribute fertilizing materials. Existing law defines various terms for the purpose of carrying out these provisions, including, but not limited to, auxiliary soil and plant substances. Existing law lists specific chemical or biological substances or mixtures of substances or devices included within the definition of auxiliary soil and plant substances and excludes commercial fertilizers, agricultural minerals, pesticides, soil amendments, and manures from the definition.~~

~~This bill would include biochar, as defined, as a product intended to be used for influencing soils, plant growth, or crop or plant quality for the purposes of the definition of auxiliary soil and plant substances. The bill would remove soil amendments as a substance excluded from the definition of auxiliary soil and plant substances.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14601 of the Food and Agricultural Code
- 2 is amended to read:
- 3 14601. (a) Each differing label, other than weight or package
- 4 size, such as changes in the guaranteed analysis, derivation
- 5 statement, or anything that implies a different product, for specialty
- 6 fertilizer, packaged agricultural mineral, auxiliary soil and plant
- 7 substance, organic input material, and packaged soil amendment
- 8 shall be registered. All registrations shall be renewed in January
- 9 of an even-numbered year, and shall be valid until December 31
- 10 of the following odd-numbered year, if issued in January of that
- 11 same year. The registration fee shall not exceed two hundred dollars
- 12 (\$200) per product, except for organic input material.
- 13 (b) Notwithstanding subdivision (a), the registration fee for
- 14 organic input material shall not exceed five hundred dollars (\$500)
- 15 per product, as the registration of organic input material labels
- 16 require additional departmental resources and review time to ensure

1 that nutrient guarantees and claims are scientifically feasible and
2 meet National Organic Program standards. Funds generated from
3 the registration of organic input material shall be deposited into
4 the Organic Input Materials Account in the Department of Food
5 and Agriculture Fund and, notwithstanding Section 221, shall be
6 available upon appropriation by the Legislature.

7 (c) The secretary may, based on the findings and
8 recommendations of the board, reduce the registration fees to a
9 lower rate that provides sufficient revenue to carry out this chapter.

10 (d) Registrations may not be issued without a current license.

11 (e) The secretary may require proof of labeling statements and
12 other claims made for any specialty fertilizer, agricultural mineral,
13 packaged soil amendment, organic input material, or auxiliary soil
14 and plant substance, before the secretary registers any such product.
15 As evidence of proof, the secretary may rely on experimental data,
16 evaluations, or advice furnished by scientists, including scientists
17 affiliated with the University of California, and may accept or
18 reject additional sources of proof in the evaluation of any fertilizing
19 material. In all cases, experimental proof shall relate to conditions
20 in California under which the product is intended for use.

21 ~~(f) Organic input material manufacturers shall be inspected at~~
22 ~~least once per year. The secretary may perform site inspections of~~
23 ~~organic input material manufacturing processes used to validate~~
24 ~~label nutrient guarantees, claims, and compliance with National~~
25 ~~Organic Program standards during the registration process.~~
26 ~~standards. The secretary department may accept inspections~~
27 ~~performed by a third-party organization recognized approved by~~
28 ~~the National Organic Program secretary for out-of-state organic~~
29 ~~input material manufacturers. All inspection records obtained by~~
30 ~~the a contracted~~ third-party organization shall be made available
31 to the secretary upon request. When a *contracted* third-party
32 organization is conducting a site inspection, the organization shall
33 notify the department of when the inspection is going to take place
34 no less than 72 hours in advance of the inspection. Department
35 representatives may be present at the inspection.

36 (g) (1) The secretary, after hearing, may cancel the registration
37 of, or refuse to register, any specialty fertilizer, packaged
38 agricultural mineral, packaged soil amendment, organic input
39 material, or auxiliary soil and plant substance, which the secretary
40 determines is detrimental or injurious to plants, animals, public

1 safety, or the environment when it is applied as directed, which is
2 known to be of little or no value for the purpose for which it is
3 intended, or for which any false or misleading claim is made or
4 implied. The secretary may cancel the registration of any product
5 of any person who violates this chapter.

6 (2) The proceedings to determine whether to cancel or refuse
7 registration of any of those products shall be conducted pursuant
8 to Chapter 5 (commencing with Section 11500) of Part 1 of
9 Division 3 of Title 2 of the Government Code. The secretary shall
10 have all the powers that are granted pursuant to Chapter 5.

11 SECTION 1. ~~Section 14513 of the Food and Agricultural Code~~
12 ~~is amended to read:~~

13 ~~14513. “Auxiliary soil and plant substance” means any~~
14 ~~chemical or biological substance or mixture of substances or device~~
15 ~~distributed in this state to be applied to soil, plants, or seeds for~~
16 ~~soil corrective purposes; or that is intended to improve germination,~~
17 ~~growth, yield, product quality, reproduction, flavor, or other~~
18 ~~desirable characteristics of plants; or that is intended to produce~~
19 ~~any chemical, biochemical, biological, or physical change in soil;~~
20 ~~but does not include commercial fertilizers, agricultural minerals,~~
21 ~~pesticides, or manures. It shall include the following:~~

- 22 ~~(a) Bacterial inoculants.~~
23 ~~(b) Biotics.~~
24 ~~(c) Lignin or humus preparations.~~
25 ~~(d) Microbial products, including genetically engineered~~
26 ~~microorganisms.~~
27 ~~(e) Soil binding agents.~~
28 ~~(f) Synthetic polyelectrolytes.~~
29 ~~(g) Wetting agents to promote water penetration.~~
30 ~~(h) Any similar product intended to be used for influencing~~
31 ~~soils, plant growth, or crop or plant quality, including biochar.~~

32 SEC. 2. ~~Section 14513.5 is added to the Food and Agricultural~~
33 ~~Code, to read:~~

34 ~~14513.5. “Biochar” means materials derived from~~
35 ~~thermochemical conversion of biomass in an oxygen-limited~~
36 ~~environment containing at least 60 percent carbon.~~